

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

GARFIELD ANTHONY WILLIAMS,

Plaintiff,

-against- Index No.: 1:20-cv-5995

THE CITY OF NEW YORK;

POLICE OFFICER OSCAR HERNANDEZ, TAX ID NO.

967545;

POLICE OFFICER JOSEPH OTTAVIANO, TAX ID. NO.

963677,

DETECTIVE RUBEN LEON, BADGE NO. 4232,

Defendants.

-----X

REMOTE DEPOSITION

OF one of the Defendants:

POLICE OFFICER JOSEPH OTTAVIANO

HELD: THURSDAY, FEBRUARY 3, 2022

11:06 a.m. - 1:27 p.m.

CASE #: 562688

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This is the ZOOM Deposition of one of the
Defendants, POLICE OFFICER JOSEPH OTTAVIANO,
taken pursuant to Order, held via ZOOM
VIDEOCONFERENCING; testimony reported via
steno machine by LAURA ANTIDORMI, and witness
being duly sworn by ROBERTA-ANNE SCHMITT,
REGISTRATION # 01SC4969685, Certified Notary
Public within and for the State of New York

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A P P E A R A N C E S:

ALL PARTIES APPEARED REMOTELY

LORD LAW GROUP, PLLC
14 Wall Street, Suite 1603
New York, New York 10005
718.701.1002
BY: MASAI I. LORD, ESQ.
lord@nycivilrights.nyc

NEW YORK CITY LAW DEPARTMENT
100 Church Street
New York, New York 10007
718.558.2169
BY: WILLIAM GOSLING, ESQ.
wgosling@law.nyc.gov
File #: 2020-026925

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I N D E X		
TO TESTIMONY		
WITNESS: POLICE OFFICER JOSEPH OTTAVIANO		
EXAMINATION BY		PAGE(S)
MR. LORD		14
MR. GOSLING		130
TO EXHIBITS MARKED		
(Attached to transcript)		
PLAINTIFF'S	DESCRIPTION	PAGE
Exhibit 1	New York City Police Department Arrest Report - B19649648, Bates stamped D_00016 to D_00019, consisting of 4 pages;attached hereto	104
Exhibit 2	Not Marked	123

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I N D E X	
TO REQUESTS	
(All requests to be followed up in	
writing by requesting counsel.)	
DESCRIPTION	PAGE
Mr. Gosling requests the releases that	135
were previously sent to Plaintiff for	
the T-Mobile, Progressive Insurance,	
among others, I think, it was taxes as	
well, that was served approximately, two	
weeks ago	

1 REMOTE OATH BY REPORTER ACKNOWLEDGEMENT

2 The attorneys participating in this deposition
3 acknowledge that the reporter is not
4 physically present in the deposition room and
5 that he/she will be reporting this deposition
6 remotely. They further acknowledge that, in
7 lieu of an oath administered in person, the
8 reporter will administer the oath remotely,
9 pursuant to Executive Order Number 202.7,
10 issued by New York State Governor Andrew M.
11 Cuomo on March 19, 2020. All parties and
12 their counsel consent to this arrangement and
13 waive any objections to this manner of
14 reporting.

221. UNIFORM RULES FOR DEPOSITIONS

221.1 Objections at Depositions

a) Objections in general: No objections shall be made at a deposition except those which, pursuant to subdivision (b), (c) or (d) of Rule 3115 of the Civil Practice Law and Rules, would be waived if not interposed, and except in compliance with subdivision (e) of such rule. All objections made at a deposition shall be noted by the officer before whom the deposition is taken, and the answer shall be given and the deposition shall proceed subject to the objections and to the right of a person to apply for appropriate relief pursuant to Article 31 of the CPLR.

b) Speaking objections restricted: Every objection raised during a deposition shall be stated succinctly and framed so as not to suggest an answer to the deponent and, at the request of the questioning attorney, shall include a clear statement as to any defect in form or other basis of error or irregularity. Except to the extent permitted by CPLR Rule 3115 or by this rule, during the course of the examination, persons in attendance shall not

221. UNIFORM RULES FOR DEPOSITIONS

make statements or comments that interfere
with the questioning.

221.2 Refusal to answer when objection is made

A deponent shall answer all questions at a
deposition, except (i) to preserve a privilege
or right of confidentiality, (ii) to enforce a
limitation set forth in an order of the court,
or (iii) when the question is plainly improper
and would, if answered, cause significant
prejudice to any person. An attorney shall
not direct a deponent not to answer except as
provided in CPLR Rule 3115 or this
subdivision. Any refusal to answer or
direction not to answer shall be accompanied
by a succinct and clear statement of the basis
therefor. If the deponent does not answer a
question, the examining party shall have the
right to complete the remainder of the
deposition.

221.3 Communication with the deponent

An attorney shall not interrupt the deposition
for purposes of communicating with a deponent
unless all parties consent or communication is
made for the purpose of determining whether

221. UNIFORM RULES FOR DEPOSITIONS

the question should not be answered on the grounds set forth in section 221.2 of these rules and, in such event, the reason for the communication shall be stated for the record succinctly and clearly.

IT IS FURTHER STIPULATED AND AGREED that the transcript may be signed before any Notary Public with the same force and effect as if signed before a clerk or a judge of the court.

IT IS FURTHER STIPULATED AND AGREED that the examination before trial may be utilized for all purposes as provided by the CPLR.

IT IS FURTHER STIPULATED AND AGREED that all rights provided to all parties by the CPLR cannot be deemed waived, and the appropriate sections of the CPLR shall be controlling with respect hereto.

IT IS FURTHER STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that a copy of this examination shall be furnished, without charge, to the attorneys representing the witness testifying herein.

* * * * *

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 THIS IS THE REMOTE ZOOM
3 DEPOSITION OF POLICE OFFICER JOSEPH OTTAVIANO,
4 one of the Defendants herein, produced
5 pursuant to ORDER, on THURSDAY, FEBRUARY 3,
6 2022, before LAURA ANTIDORMI, Court Reporter.

7 * * * * *

8 THE REPORTER: The
9 attorneys participating in this
10 deposition acknowledge that I
11 am not physically present in
12 the deposition room and that I
13 will be reporting the
14 deposition remotely. They
15 further acknowledge that in
16 lieu of an oath administered in
17 person, the witness will be
18 sworn in remotely by a New York
19 notary public and the witness
20 will verbally declare his
21 testimony in this matter is
22 under penalty of perjury.

23 The parties and their
24 counsel consent to this
25 arrangement and waive any

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 objections to this manner of
3 reporting.

4 Please indicate your
5 agreement by stating your name,
6 who you represent, and your
7 agreement on the record in the
8 order of the caption.

9 MR. LORD: My name is
10 Masai I. Lord. I represent the
11 Plaintiff, Garfield Anthony
12 Williams, and I consent.

13 MR. GOSLING: My name is
14 William Gosling. I am the
15 attorney for Police Officer
16 Ottavino, and I consent.

17 THE REPORTER: Thank you.

18 The notary will now swear
19 in the witness.

20 THE NOTARY: Good morning
21 everybody. My name is
22 Roberta-Anne Schmitt. I am a
23 notary public qualified in the
24 State of New York. My
25 registration number is

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 01SC4969685. My commission
3 expires July 23rd, 2022. I am
4 here to administer the oath to
5 the witness.

6 Police Officer Ottaviano,
7 would you please raise your
8 right hand.

9 THE WITNESS: (Complied.)

10 THE NOTARY: Do you
11 solemnly swear or affirm that
12 the testimony you're about to
13 give today will be true under
14 the penalties of perjury?

15 THE WITNESS: I do.

16 THE NOTARY: Thank you so
17 much. You can lower your hand.

18 Will you please state your
19 full name for the record.

20 THE WITNESS: Joseph
21 Ottaviano.

22 THE NOTARY: Thank you so
23 much.

24 And that's spelled
25 O-T-T-A-V-I-A-N-O?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 THE WITNESS: Correct.

3 THE NOTARY: Thank you so
4 much.

5 Counsel, are we using the
6 100 Church Street address for
7 Mr. Ottaviano's address on the
8 record?

9 MR. GOSLING: Yeah. I
10 mean, you could put One Police
11 Plaza for his address, but
12 nothing is going to be mailed
13 to him, right?

14 THE NOTARY: No, it's just
15 his address for the record.

16 MR. GOSLING: You could
17 put One Police Plaza. So it's
18 in New York, New York 10038.

19 THE NOTARY: Thank you so
20 much.

21 * * * * *

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 POLICE OFFICER JOSEPH OTTAVIANO
3 called as the witness, hereinbefore named,
4 being first duly cautioned and sworn or
5 affirmed remotely by Roberta-Anne Schmitt,
6 Registration # 01SC4969685, Notary Public in
7 and for the State of New York herein, to tell
8 the truth, the whole truth, and nothing but
9 the truth, was examined and testified as
10 follows:

11 EXAMINATION

12 BY MR. LORD:

13 Q Good morning, Officer
14 Ottaviano.

15 Am I pronouncing that
16 correctly?

17 A Yes, that's good.

18 Q Good morning.

19 A Good morning.

20 Q So my name is Masai Lord. I
21 represent the Plaintiff in this
22 action, Garfield Anthony
23 Williams, and I'm going to be
24 asking you some questions today
25 relating to the incident and

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 arrest that took place on
3 December 15th to 16th for 2019.

4 I just want to start with
5 some ways that I want you to
6 answer some questions, because we
7 have a Court Reporter taking this
8 down.

9 First, have you testified
10 under oath before?

11 A Yes.

12 Q So as you're probably aware,
13 the Court Reporter can't take
14 down any nonverbal gestures, so
15 if you do make a gesture in terms
16 of indicating something happened,
17 give me a chance to describe it
18 for the record. But if you're
19 making a gesture in terms of
20 answering a question, make sure
21 that you say the full answer
22 verbally so she can record it.

23 Because the Court Reporter
24 is also taking down questions, we
25 can't speak at the same time. So

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 if you have a question, let me
3 finish my question first before
4 you answer it.

5 If you want to say something
6 in terms of a previous question
7 that was asked, please let me
8 know. And if I'm not in the
9 middle of a question, I'll try to
10 accommodate that, but the most
11 important thing is that we just
12 can't talk over each other to
13 make sure that the record is
14 clear.

15 Do you understand everything
16 that I've said?

17 A Yes.

18 Q So have you reviewed any
19 documents in preparation for this
20 deposition?

21 A I have.

22 Q What documents have you
23 reviewed?

24 A The arrest report, my memo
25 book and my body-camera footage.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q So just to confirm, you
3 reviewed the arrest report, your
4 memo book and body-cam footage.

5 Did you review just your
6 body-cam footage, or other
7 officer's body-cam footage?

8 A Just mine.

9 Q Are those the only things
10 that you reviewed -- only
11 documents that you reviewed in
12 preparation for this deposition?

13 A Yes.

14 Q In the course of the case,
15 did you prepare any documents
16 relating to the arrest of Mr.
17 Williams on December 15th,
18 December 16th, 2019?

19 A No.

20 Q You did prepare your memo
21 book?

22 A Yes. During that day, yes.

23 Q You don't consider that
24 related to the arrest?

25 A No, I thought you meant like

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 after, after the fact. Not since
3 that day, I don't have any other
4 notes.

5 Q Outside of your attorney, or
6 any attorneys that represented
7 you in this action, have you
8 discussed this case with anyone?

9 A Yes.

10 Q Who have you discussed the
11 case with?

12 A Just the arresting officer,
13 Hernandez.

14 Q When did you discuss the
15 case with him?

16 A I can't recall the exact
17 day.

18 Q So just quick background
19 questions: What's your highest
20 level of education?

21 A I have a bachelor's degree.

22 Q Have you received any
23 commendations since you've been
24 employed by the New York Police
25 Department?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A No.

3 Q Have you received any formal
4 discipline since you've been
5 employed by the New York Police
6 Department?

7 MR. GOSLING: I believe he
8 froze.

9 A "No," to that last question.

10 BY MR. LORD:

11 Q Are you aware if you have
12 ever been sued in state or
13 federal court relating to your
14 duties for the New York Police
15 Department?

16 MR. GOSLING: Objection.
17 You can answer.

18 A Yes.

19 BY MR. LORD:

20 Q Can you tell me what
21 lawsuits?

22 A It was -- I believe it was a
23 lawsuit. I think it was in 2017,
24 for an arrest.

25 Q Do you know the outcome of

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 that lawsuit?

3 A No, I don't know. I don't
4 know the outcome.

5 Q Did you testify at a
6 deposition?

7 A No.

8 Q Have you ever had CCRB
9 complaints against you?

10 A No.

11 Q Have you received any
12 discipline not related to a CCRB
13 or a lawsuit?

14 MR. GOSLING: Objection.

15 You can answer.

16 Just give me a minute to
17 object to the question.

18 BY MR. LORD:

19 Q So just to confirm, you've
20 never been disciplined by New
21 York Police Department?

22 MR. GOSLING: Objection.

23 You can answer.

24 A No.

25

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q What is your current title?

4 A Police officer.

5 Q Have you received any
6 promotions since you started
7 working for the New York Police
8 Department?

9 A No.

10 Q What year did you start
11 working for New York Police
12 Department?

13 A I started in 2017.

14 Q And just to confirm, you
15 still currently work for New York
16 Police Department?

17 A I do.

18 Q What are your current duties
19 as a police officer?

20 A I am currently a patrol
21 officer in the 48th Precinct.

22 Q What are your duties as a
23 patrol officer?

24 A Patrol officers can conduct
25 arrests, issues summonses,

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 protect the community, write
3 reports; things like that.

4 Q Have you been a patrol
5 officer since you started from
6 the academy?

7 MR. GOSLING: Objection.

8 You could answer.

9 A I have.

10 BY MR. LORD:

11 Q Have you worked with any
12 other precincts besides the 48th
13 Precinct?

14 A No.

15 Q Are you on any special
16 tactical groups or response
17 groups in NYPD?

18 A No.

19 Q Have you previously or at
20 any time served in the military?

21 A No.

22 Q How many times,
23 approximately, have you testified
24 under oath?

25 A Approximately, five or six

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 times.

3 Q Can you just give a general
4 outline of what type of
5 proceedings you were testifying
6 in?

7 A They were a trial and a
8 hearing, hearings.

9 Q And you would testify, I
10 guess, in coordination with the
11 Bronx District Attorney's office?

12 MR. GOSLING: Counselor,
13 are you asking him -- like, are
14 you asking him to confirm
15 whether or not his testimony
16 was in criminal proceedings or
17 civil proceedings, or something
18 else?

19 MR. LORD: Yes. Actually,
20 yes.

21 BY MR. LORD:

22 Q So was your testimony in
23 criminal or civil proceedings or
24 both?

25 A Criminal.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q Did you receive training in
3 how to testify?

4 MR. GOSLING: Objection.
5 You could answer.

6 A Yes.

7 BY MR. LORD:

8 Q In that training, was that
9 at the academy?

10 MR. GOSLING: Objection.
11 You can answer.

12 A Correct.

13 BY MR. LORD:

14 Q How many arrests have you
15 made while you've been employed
16 by New York Police Department?

17 A I made 151 arrests.

18 Q Are you aware of the crime
19 that you make the most arrests
20 for?

21 MR. GOSLING: Objection.
22 You can answer.

23 A I'm sorry. Could repeat
24 that question? You cut out.

25

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q What crime do you make --
4 Out of your 151 arrests,
5 what crime do you mostly arrest
6 people for?

7 MR. GOSLING: Objection.

8 You can answer.

9 A I make varied --
10 Assault is a big one.
11 Assault, a lot of assault
12 arrests.

13 BY MR. LORD:

14 Q Have you made any arrests
15 for driving while intoxicated?

16 MR. GOSLING: Objection.

17 You can answer.

18 A Yes.

19 BY MR. LORD:

20 Q And how many of those
21 arrests have you made?

22 MR. GOSLING: Objection.

23 You can answer.

24 A Approximately, four to five.

25

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q As part of your duties as a
4 patrol officer, do you write
5 accident reports?

6 A Yes.

7 Q How many accident reports,
8 approximately, have you written?

9 MR. GOSLING: Objection.

10 A Approximately, 20 to 30.

11 BY MR. LORD:

12 Q So did you receive training
13 in how to write accident reports?

14 A Yes.

15 Q Did you receive training in
16 how to view the signs of
17 intoxication for a DWI?

18 A Yes.

19 Q Can you describe some of the
20 training you received?

21 MR. GOSLING: Objection.

22 You could answer.

23 A Yeah, it was like training
24 that I received at the academy.

25

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q What type of training did
4 you receive at the academy?

5 A It was the signs of --
6 telltale sings of intoxication of
7 an individual while they're
8 driving a vehicle. Things like
9 that.

10 Q Can you describe in detail
11 any of the training that you
12 received?

13 A Yeah. I mean, I did. There
14 was a class about signs of
15 intoxication from an individual
16 if they're behind the wheel of a
17 vehicle. And do you want me to
18 tell you the signs? Is that what
19 you're asking for?

20 Q Yes. Can you please say
21 some of the signs of intoxication
22 that you were taught at the
23 academy?

24 A Yeah, slurred speech, blurry
25 eyes, bloodshot eyes, odor of

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 alcohol on the individual's
3 breath. Imbalance.

4 Q Did you receive any training
5 after the academy?

6 MR. GOSLING: Objection.

7 You could answer.

8 A I can't recall any other
9 training after that, no.

10 BY MR. LORD:

11 Q Do you receive training in
12 the academy about an individual's
13 right to Counsel?

14 MR. GOSLING: Objection.

15 You could answer.

16 A I can't specifically
17 remember if there was a class
18 about that or not.

19 BY MR. LORD:

20 Q Well, let me be more
21 specific.

22 Did you receive any training
23 in what a police officer can and
24 cannot do once an individual's
25 right to Counsel is invoked?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. GOSLING: Objection.

3 You could answer.

4 A I can't. I can't recall
5 that, specifically.

6 BY MR. LORD:

7 Q Do you receive any training
8 in what an individual can do --

9 MR. LORD: Withdrawn.

10 BY MR. LORD:

11 Q Do you receive any training
12 what an officer can do, once an
13 individual invokes a right to
14 Counsel, after the academy?

15 MR. GOSLING: Objection.

16 You can answer.

17 A Yes.

18 BY MR. LORD:

19 Q When did you receive that
20 training?

21 A The academy.

22 Q So you're now saying you did
23 receive it in the academy?

24 MR. GOSLING: Objection.

25 I don't think --

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 I think you're
3 mischaracterizing his
4 testimony, but you can answer.

5 MR. LORD: I don't think I
6 am, but he could answer.

7 A Yeah, at the academy about
8 when someone --

9 When someone's arrested and
10 they refuse to, like, answer any
11 questions after they've been
12 arrested, in regards to wanting
13 rights to an attorney. If that's
14 my answer -- I thought that was
15 what you were referring to.

16 BY MR. LORD:

17 Q If someone --

18 MR. LORD: Withdrawn.

19 BY MR. LORD:

20 Q If someone has not been
21 arrested and they invoke the
22 right to Counsel or say they want
23 to talk to a lawyer, do you make
24 a negative inference from that
25 statement?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Do I make a what? Sorry.

3 Q A negative inference.

4 MR. GOSLING: Objection.

5 Counsel, I've been --

6 I'm not really sure what
7 the line of questioning you're
8 going into. It seems to say
9 legalese, legal language.

10 MR. LORD: He's a trained
11 police officer. I'm taking
12 about training he's received.
13 If this is something outside of
14 the scope, I understand that,
15 but I'm asking him, and it's
16 very clear, if someone invokes
17 a right to Counsel or chooses
18 to say, "I want to talk to a
19 lawyer," do you view that as a
20 consciousness of guilt?

21 MR. GOSLING: Do you
22 review it as what?

23 MR. LORD: View it as a
24 consciousness of guilt.

25 MR. GOSLING: Okay. I

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 just think your question was a
3 little confusing.

4 You could answer.

5 A No -- no, negative -- no,
6 nothing negative on that.

7 BY MR. LORD:

8 Q Okay. So I want to direct
9 your attention to December 15th,
10 2019.

11 What was your tour that day?

12 A My tour was 11:15 p.m. by
13 07:50 a.m.

14 Q Were you in plainclothes or
15 uniform?

16 A I was in uniform.

17 Q Were you working with a
18 partner?

19 A Yes.

20 Q Who was your partner?

21 A That day was Officer
22 Hernandez.

23 Q Is that the same Officer
24 Hernandez who is listed in the
25 lawsuit?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Yes.

3 Q Were you part of a larger
4 unit, you and Officer Hernandez?

5 MR. GOSLING: Objection.

6 You could answer.

7 A "Larger unit"? Like what do
8 you mean by that?

9 BY MR. LORD:

10 Q Well, you were on patrol.
11 Was it just you and Officer
12 Hernandez were the only ones who
13 were on patrol?

14 MR. GOSLING: Objection.

15 You could answer.

16 A Yeah, there were other
17 officers on patrol that day, if
18 that's what you're asking, yes.

19 BY MR. LORD:

20 Q Were you working in
21 coordination with the other
22 officers who were on patrol, or
23 were you independently doing your
24 patrol?

25 A It's a correlation.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q At, approximately, what time
3 did you hear that there was an
4 accident involving Mr. Anthony
5 Williams?

6 A I can't recall the specific
7 time -- specific time it was
8 exactly.

9 Q Do you know where you --

10 MR. LORD: Withdrawn.

11 BY MR. LORD:

12 Q Do you know where you were
13 prior to arriving on the scene?

14 MR. GOSLING: Objection.

15 You could answer.

16 A Yeah, I mean, upon arrival
17 on the scene, we were en route to
18 the call that we had gotten, a
19 911 call, as far as a vehicle
20 accident on the highway.

21 BY MR. LORD:

22 Q So you were responding to a
23 911 call when you arrived on the
24 scene?

25 A Yes.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q How long did it take you to
3 get there, once you received the
4 911 call, or notice of it?

5 A I would say, approximately,
6 between, maybe, five to ten
7 minutes.

8 Q What was the content of this
9 911 call?

10 A A vehicle accident.

11 Q And to your knowledge, are
12 these calls recorded?

13 A I mean, they're transmitted
14 through our radio, so, I mean,
15 there's recordings of it, of the
16 job, through our radios.

17 Q Do you know where you were
18 at when you received the 911
19 notification of a car accident?

20 A You mean prior to getting
21 that?

22 Q Yes.

23 A No, I don't know exactly
24 where I was before then.

25 Q When you received this

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 notification, did you discuss it
3 at all with Officer Hernandez?

4 MR. GOSLING: Objection.

5 You can answer.

6 A Just that we -- just that,
7 that we had another 911 call in
8 regards to an accident that we
9 had to respond to. Other than
10 that, nothing specific.

11 BY MR. LORD:

12 Q So you say it took you about
13 five to ten minutes to arrive on
14 the scene?

15 A Approximately, I would say,
16 yes.

17 Q So I want to talk to you
18 strictly about the observations
19 that --

20 MR. LORD: Withdrawn.

21 BY MR. LORD:

22 Q I want to talk to you about
23 what you observed when you
24 arrived on the scene.

25 Who was present?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. GOSLING: Objection.

3 You could answer.

4 A Well, myself, my partner,
5 Hernandez. EMS was on scene.
6 Individuals that were involved in
7 the accident.

8 BY MR. LORD:

9 Q Can you name all the
10 individuals that were on the
11 scene who were not police
12 officers or EMS?

13 MR. GOSLING: Objection.

14 To the extent that you
15 know, you could answer.

16 A No, I can't recall any other
17 specific names.

18 BY MR. LORD:

19 Q Do you know, approximately,
20 how many people it was?

21 A In total, probably between,
22 maybe, ten to 12 people.

23 Q Do you remember how many of
24 these people were not police
25 officers or EMS?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Me, Hernandez, obviously
3 were, and then there is some
4 officers from the emergency
5 service unit that were on scene.
6 So a few of them.

7 Q You said the name, bird?

8 A No. Myself, Officer
9 Hernandez and then there was
10 officers from the emergency
11 service unit that were on the
12 scene prior to us getting there.

13 Q What was the condition of
14 the vehicles when you arrived on
15 the scene?

16 A They were both damaged.

17 Q Was one damaged more
18 severely than the other?

19 A I believe so. I think one
20 of them had to get towed because
21 it was unable to drive.

22 Q When you arrived on the
23 scene, was any car blocking the
24 intersection?

25 MR. GOSLING: Objection.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 You could answer.

3 Just to be clear, Counsel,
4 when you're saying
5 "intersection," are you
6 referring to, like, the lane?

7 MR. LORD: Yes.

8 BY MR. LORD:

9 Q Was any vehicle blocking the
10 lane on the highway?

11 A Yes.

12 Q Do you remember which
13 vehicle was blocking the lane on
14 the highway?

15 A I believe the two vehicles
16 that were involved in it were
17 both in separate lanes, if I
18 could recall properly. So other
19 than, those two. And besides the
20 ambulance that was on scene, that
21 would have been stopped in the
22 lane as well.

23 Q Now, you mentioned earlier
24 they were ESU officer on the
25 scene.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Did you speak to any of
3 these officers?

4 A I can't recall if I
5 specifically spoke to one of them
6 in particular, no.

7 Q Did Officer Hernandez speak
8 to any of these officers?

9 A I'm not sure who he spoke
10 to.

11 Q Were you next to him when he
12 arrived on the scene?

13 MR. GOSLING: Objection.

14 You could answer.

15 A Yes, we were next to each
16 other.

17 BY MR. LORD:

18 Q Were you able to observe his
19 actions while he was on the
20 scene?

21 MR. GOSLING: Objection.

22 You can answer.

23 A You're talking about Officer
24 Hernandez?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q Yes.

4 A Can you repeat that question
5 one more time?

6 Q While you were at the scene,
7 were you able to observe what
8 Officer Hernandez was doing?

9 MR. GOSLING: Objection.

10 You can answer.

11 A Yes.

12 BY MR. LORD:

13 Q At any point did you see
14 Officer Hernandez talk to a
15 member of the ESU unit?

16 MR. GOSLING: Objection.

17 You could answer.

18 A No, I can't specifically
19 remember if he had spoke to
20 somebody at a certain point.

21 BY MR. LORD:

22 Q You said --

23 MR. LORD: Withdrawn.

24 BY MR. LORD:

25 Q Did you speak to a member of

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 the ESU Unit?

3 A Yeah, I can't recall if I
4 spoke to a member of the ESU that
5 was there. Possibly, but I can't
6 recall.

7 Q When you arrived on the
8 scene, you're only aware that
9 there was a car accident?

10 A No.

11 Q What else did you know?

12 A Well, when I got to the
13 scene, I spoke to the person
14 questioning about what happened,
15 and I also spoke to the other guy
16 who was in the accident.

17 Q So you spoke to Mr. Jimenez,
18 I believe is his last name? You
19 could answer.

20 MR. GOSLING: Counsel, are
21 you referring to --

22 MR. LORD: I probably got
23 his name wrong. Give me one
24 second.

25 (At which time, there

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 was a brief pause in the
3 proceedings.)

4 MR. LORD: Do you know it
5 offhand?

6 MR. GOSLING: No, but I
7 think if you just refer to who
8 that individual is, I think
9 that might make more sense.

10 MR. LORD: I got the name
11 correct.

12 BY MR. LORD:

13 Q Are you familiar with the
14 name Carlos Jimenez?

15 A No, I'm not familiar with
16 it. No.

17 Q So you say you spoke with an
18 individual involved in the
19 accident.

20 Can you describe the
21 individual?

22 A He was sitting in the back
23 of a vehicle, and there was
24 another lady in the driver's
25 seat, but the person I was

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 speaking to was in the back, in
3 the back seat.

4 Q Do you know the race of the
5 individual?

6 A I believe he was black.

7 Q Can you describe any facial
8 features or his hair?

9 A Yeah, he had kind of
10 medium-length hair, braids.

11 Q At any point did you find
12 out the identity of this
13 individual?

14 A Yes.

15 Q What was his name?

16 A I believe it was Garfield.

17 Q Now, you say you spoke to
18 him in the back of --

19 MR. LORD: Withdrawn.

20 BY MR. LORD:

21 Q You said he was in the back
22 of a car when you spoke with him,
23 correct?

24 A Correct.

25 Q What did you say to him when

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 you spoke to him?

3 MR. GOSLING: Objection.

4 You could answer.

5 A I can't recall exactly what
6 the exact dialogue was, but I
7 know, after my dialogue with him
8 that, eventually, we did place
9 him under arrest.

10 BY MR. LORD:

11 Q Was the door open when you
12 spoke with him?

13 A I'm sorry?

14 Q Was the door open?

15 MR. GOSLING: Objection.

16 Are you referring to the car,
17 or?

18 BY MR. LORD:

19 Q Was the car door open when
20 you spoke with him?

21 MR. GOSLING: When you say
22 "him" -- counselor, I'm sorry,
23 but when you say "him," can you
24 just specify who you're
25 referring to?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q Was the car door open when
4 you spoke with Garfield Anthony
5 Williams?

6 A I can't recall if it was
7 opened.

8 Q Was the window down when you
9 spoke with Garfield Anthony
10 Williams?

11 A Yeah, I believe it was.

12 Q How long was this
13 conversation with him?

14 A Approximately, a few
15 minutes.

16 Q What was the content of the
17 conversation?

18 A I can't recall exactly what
19 I said to him, but it was
20 probably along the lines of what
21 happened in regards to the
22 incident.

23 Q Do you remember what he said
24 back to you?

25 A No, I don't.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q Now, did you talk to another
3 individual who was involved in
4 the accident when you arrived on
5 the scene?

6 A Yes.

7 Q Do you know the name of that
8 individual?

9 A No, I can't recall his name.

10 Q Can you identify any
11 features, characteristics or race
12 of him?

13 A Yeah, I think he was a
14 Hispanic male. The vehicle was a
15 Jeep, I believe, he was driving.

16 Q What was the content of the
17 conversation you had with that
18 individual?

19 A I asked him what happened to
20 get his side of the story.

21 Q What did he say?

22 A He said that the person, Mr.
23 Garfield, that I spoke to before,
24 that he saw him stumbling when he
25 got out and he appeared to be

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 messed up.

3 Q What do you mean, "messed
4 up"?

5 A That's what he said, so I
6 mean, those are his words.

7 Q Did you ask any follow-up
8 questions about what he meant by
9 "messed up"?

10 A I can't recall if I did.

11 Q When you spoke with this
12 individual, was Officer Hernandez
13 present?

14 A No, he wasn't.

15 Q Was Officer Hernandez
16 present when you spoke with
17 Garfield Anthony Williams?

18 A Yes.

19 Q Are you aware if Officer
20 Hernandez spoke with the
21 individual who was not Garfield
22 Anthony Williams at some point
23 during -- prior to the arrest?

24 MR. GOSLING: Objection.

25 You could answer if you know.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A No, I'm not 100 percent sure
3 if he did or did not speak to
4 him.

5 BY MR. LORD:

6 Q Obviously, you're not a
7 hundred percent sure.

8 Do you have any degree of
9 certainty of whether or not he
10 did?

11 MR. GOSLING: Objection.
12 You could answer.

13 A No.

14 BY MR. LORD:

15 Q So at any point did you
16 observe Garfield Anthony Williams
17 outside of the car?

18 A Just what I told you before,
19 when he was in the back of the
20 vehicle, that other vehicle.

21 Q Is it fair to say that you
22 arrested him from the back of the
23 vehicle and he never left the car
24 while you were on the scene?

25 MR. GOSLING: Objection.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 You could answer.

3 A Yeah, I believe I asked him
4 to step out of the vehicle and he
5 did, and he was handcuffed,
6 placed under arrest.

7 BY MR. LORD:

8 Q So at the time you placed
9 handcuffs on him, he was under
10 arrest; is that correct?

11 A Yes, based off my
12 observations that I made of
13 impairment.

14 Q What observation did you
15 make?

16 A He had an odor of alcohol on
17 his breath, he had a little
18 slurred speech, and his eyes were
19 bloodshot, watery.

20 Q Did Garfield Anthony
21 Williams have a lawyer present
22 when you spoke with him?

23 MR. GOSLING: Objection.

24 You could answer.

25 A He did have somebody that

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 came up to us that, I believe,
3 was stating he was an attorney.

4 BY MR. LORD:

5 Q Were you able to at some
6 point verify whether or not he
7 was an attorney?

8 A I can't recall if he showed
9 us any type of ID or credentials.

10 Q If he was an attorney, would
11 you have been allowed to talk to
12 Garfield Anthony Williams
13 directly?

14 MR. GOSLING: Objection.
15 You could answer.

16 A No.

17 BY MR. LORD:

18 Q So your understanding was
19 that this individual was not an
20 attorney?

21 A At that time it wasn't -- it
22 wasn't proved, I believe, that he
23 was an attorney for him.

24 Q So when you say "prove," how
25 does one prove that they're an

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 attorney?

3 MR. GOSLING: Objection.

4 You could answer.

5 A Like I said, he was more
6 verbally saying, I believe, that
7 he was with him and he was -- I
8 think he said he was an attorney.

9 I can't recall exactly his
10 wording or anything like that.

11 I know at some point, when
12 we did place Mr. Garfield under
13 arrest, EMS wanted to check on
14 him for any possible injuries
15 from the accident, so he went in
16 the back of the ambulance.

17 So I didn't have any type of
18 dialogue with the attorney, so he
19 says, and Mr. Garfield together
20 at any point.

21 BY MR. LORD:

22 Q So were you ever told that
23 this person, who represented to
24 be an attorney, represented
25 Garfield Anthony Williams?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 I can rephrase that if you
3 want.

4 A Sure. Yeah, if you could.

5 Q So I will just do two steps.

6 So you said it was an individual
7 who was at the scene who said he
8 was an attorney, correct?

9 A Yes.

10 Q Did this individual say he
11 was an attorney; tell you that he
12 represented Garfield Anthony
13 Williams?

14 A I can't recall on scene if
15 he did, but when we got to the
16 hospital, I know he did.

17 Q If he represented Garfield
18 Anthony Williams, would you have
19 been allowed to talk to Garfield
20 Anthony Williams directly?

21 A No.

22 Q Did you at any point attempt
23 to ascertain whether or not he
24 represented Garfield Anthony
25 Williams?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Not on scene, no. The
3 biggest thing was to get Mr.
4 Garfield to the hospital to treat
5 for any possible injuries since
6 they cleared up the highway so
7 traffic could continue to move,
8 because there were a lot of lanes
9 that were blocked with regards to
10 the accident.

11 Q Just to be clear that you
12 placed Garfield Anthony Williams
13 under arrest prior to him getting
14 treatment, correct?

15 A Yes, he was handcuffed
16 before entering the ambulance.

17 Q Are you aware if any other
18 officer was informed that
19 Garfield Anthony Williams was
20 represented by Counsel?

21 MR. GOSLING: Objection.

22 You could answer.

23 A I can't recall if any
24 officer besides Officer Hernandez
25 who, obviously, was my partner.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q So you never saw Garfield
4 Anthony Williams outside of the
5 vehicle prior to arresting him,
6 correct?

7 A Correct.

8 Q So you never saw whether he
9 was swaying?

10 A You said, "swaying"?

11 Q Yes.

12 A When? Yeah, so like I was
13 saying, when we got to the scene,
14 he was sitting down in the back
15 of the vehicle, and so there was
16 no -- he wasn't standing up at
17 that point, as far as the swaying
18 goes.

19 Q So how would you describe
20 the odor of alcohol; was it
21 faint, moderate, or strong, or
22 something else?

23 A It was moderate.

24 Q What did the alcohol smell
25 like?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. GOSLING: Objection.

3 You could answer.

4 A Smelled like -- like
5 alcohol.

6 BY MR. LORD:

7 Q Did the alcohol smell like a
8 specific drink that he had taken
9 such as beer or wine or Vodka?

10 A No, I wouldn't be able to
11 pinpoint that.

12 Q So you said he had
13 bloodshot, watery eyes?

14 A Yeah, and slurred speech.

15 Q Were you aware that the air
16 bag had been deployed in the car
17 accident for his vehicle?

18 A In both vehicles, or which
19 vehicle are you talking about?

20 Q Well, at least one of the
21 vehicles had the air bag
22 deployed, correct?

23 A I can't recall if there was
24 one or not. I wouldn't be able
25 to recall that.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q But according to you, his
3 speech was slurred?

4 A Yes, based off my
5 observation.

6 Q What did he say,
7 specifically, that was slurred?

8 A I can't recall exact wording
9 that he gave me.

10 Q Can you recall in the manner
11 it was slurred and describe how
12 he was slurring his words?

13 MR. GOSLING: Objection.

14 You could answer.

15 A Yeah, he has some sort of,
16 like, mumbling speech.

17 BY MR. LORD:

18 Q So was he mumbling or was he
19 slurring his speech?

20 A It was slurred speech.

21 Q In your opinion, is there a
22 difference between mumbling and
23 slurring your speech?

24 MR. GOSLING: Objection.

25 You could answer.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A A difference?

3 BY MR. LORD:

4 Q Yeah.

5 A To me, not -- to me, I take
6 it as the same thing.

7 Q So if someone is mumbling to
8 you, that means that they're
9 slurring their speech?

10 A Yes.

11 Q So in this instance,
12 Garfield Anthony Williams was
13 mumbling?

14 A Yes, slurred speech.

15 Q So my question was: When
16 you say, "slurred speech," you
17 mean "slurred speech," because he
18 was mumbling?

19 MR. GOSLING: Objection.

20 You could answer.

21 A That would have been one of
22 the -- yeah, that would have been
23 one of my observations that I
24 took from him, yes.

25

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q So in regards solely to
4 speech, was he doing anything
5 else besides mumbling?

6 A I can't recall.

7 Q You said he had bloodshot,
8 watery eyes?

9 A Yes.

10 Q I want to just talk to you a
11 little bit about his condition,
12 his physical condition.

13 When you observed him, was
14 the color of his face normal, was
15 it flushed, or was it pale, or
16 something else?

17 A I can't recall what his face
18 appearance looked like at that
19 time.

20 Q How about his clothes, were
21 they orderly, were they soiled,
22 were they disarranged, were they
23 disorderly?

24 A I can't recall what his
25 dress attire looked like.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q What about his attitude; was
3 he talkative, combative,
4 cooperative, or uncooperative?

5 A I'd say, for the most part,
6 he was cooperative. He didn't
7 give too much of a hard time.

8 Q Did he curse, did he vomit,
9 did he hiccup, was he fighting,
10 anything along those lines?

11 MR. GOSLING: Objection.

12 You could answer.

13 A No, not that I could recall.

14 BY MR. LORD:

15 Q You said his speech was
16 slurred; it was slurred, it
17 wasn't clear?

18 A Correct, it wasn't clear.

19 Q Prior to arresting Garfield
20 Anthony Williams, how did you
21 know that he was the person
22 driving the car in the car
23 accident?

24 A By the other guy, the other
25 person that he had gotten into

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 the vehicle accident with.

3 Q The other guy told you that
4 Garfield Anthony Williams had
5 been driving the car?

6 A Yeah, upon our investigation
7 we found out that he was -- he
8 was the one driving the vehicle.

9 Q You said upon your
10 investigation.

11 What did you uncover in your
12 investigation that made you
13 decide that he was driving the
14 vehicle?

15 A Based off my conversation
16 with the other individual, the
17 victim, that was hit in the
18 accident.

19 Q You call him a victim. Why
20 do you call him a victim?

21 A Well, Mr. Garfield was
22 arrested, that for suspicion of
23 DWI, and that guy was the one
24 that he hit, so he would have
25 been the complainant in the case.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q Do you carry preliminary
3 breath tests on you when you are
4 on patrol?

5 A No.

6 Q Did you ask Officer --

7 MR. LORD: Withdrawn.

8 BY MR. LORD:

9 Q Did you ask you Garfield
10 Anthony Williams whether he
11 wanted to take the preliminary
12 breath test?

13 A I can't recall if I
14 specifically asked him to take a
15 breath test.

16 Q Do you know if Officer
17 Hernandez asked him whether he
18 wanted to take a breath test?

19 A I wouldn't know if he asked
20 him or not.

21 Q Officer Hernandez was
22 present when you were talking to
23 Garfield Anthony Williams,
24 correct?

25 A Yes.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q So if Officer Hernandez had
3 said something while you were
4 present, you would have heard it?

5 A Yeah, if he was next to me.

6 MR. GOSLING: Objection.

7 You could answer.

8 BY MR. LORD:

9 Q Did he ask for a preliminary
10 breath test while he was next to
11 you and you were talking to
12 Garfield Anthony Williams?

13 MR. GOSLING: Objection.

14 You can answer.

15 A Yeah, I can't -- I don't
16 believe he said that,
17 specifically.

18 BY MR. LORD:

19 Q Did you ask Garfield Anthony
20 Williams to do any coordination
21 tests?

22 A Not on scene, no.

23 Q Why not?

24 A I'm not trained to do that,
25 and he was taken from the

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 incident to the scene to the
3 hospital where we call for
4 highway to conduct testing for
5 him.

6 Q Is Officer Hernandez trained
7 to do that?

8 A I'm sorry?

9 MR. GOSLING: Objection.
10 Objection. You could answer.

11 A Can you repeat that?

12 BY MR. LORD:

13 Q Is Officer Hernandez trained
14 to do coordination tests?

15 MR. GOSLING: Objection.
16 I'm going to say not to answer
17 this.

18 He has no basis for
19 knowing what training Officer
20 Hernandez has had.

21 MR. LORD: They're
22 partners. If I phrase the
23 question as, were you ever told
24 by Officer Hernandez whether he
25 had training, that's

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 acceptable.

3 MR. GOSLING: You're
4 asking him to explain training
5 that Officer Hernandez had, but
6 you're going to have a
7 deposition of Officer Hernandez
8 and you can ask him about his
9 training.

10 MR. LORD: I'm asking him
11 what if Officer Hernandez ever
12 told him or he knew the
13 training that Officer Hernandez
14 received.

15 MR. GOSLING: Counsel,
16 your question is asking him to
17 tell you what training Officer
18 Hernandez has had.

19 MR. LORD: No, I'm asking
20 him --

21 He doesn't know. He
22 doesn't have personal knowledge
23 of that, but he can testify to
24 what he's been asked or what
25 he's been told or informed by

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 another party. He can't say --

3 He can't attest that it's
4 true unless they were in the
5 academy together, which I can
6 ask that as well, if he was in
7 training with him, but what he
8 can attest to is whether he was
9 actually ever told these things
10 by his partner.

11 MR. GOSLING: But that's
12 not the way that your question
13 was formed, so I'll ask you to
14 just rephrase the question.
15 You know, the way that your
16 question was asked --

17 MR. LORD: I'll rephrase
18 it. I'll rephrase it.

19 BY MR. LORD:

20 Q So Officer Ottaviano, did
21 Officer Hernandez ever inform you
22 of any trainings he received at
23 the academy?

24 A No.

25 Q So are you aware, or have

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 you ever been informed whether
3 Officer Hernandez had
4 coordination training?

5 A No, I'm not aware if he has
6 or hasn't.

7 MR. LORD: Let's take a
8 break to 12:05.

9 * * * * *

10 (At which time, a brief
11 recess was held until 12:05
12 p.m.)

13 * * * * *

14 BY MR. LORD:

15 Q So Officer Ottaviano, prior
16 to arresting Garfield Anthony
17 Williams, did you have any
18 conversations with Officer
19 Hernandez?

20 A Not that I recall, no.

21 Q So, specifically, any
22 conversations about whether
23 Garfield Anthony Williams was
24 intoxicated, or whether or not
25 you guys should or should not

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 arrest him?

3 A No, we had a mutual
4 understanding that he was being
5 placed under arrest, based off of
6 what we observed.

7 Q That mutual understanding
8 was spoken or you just kind of
9 knew?

10 A A little bit of both.

11 Q So was there ever a point
12 where you formally said, We're
13 going to place this guy under
14 arrest, to each other?

15 A I can't recall if I
16 specifically told him that before
17 placing him under arrest.

18 Q But it's safe to say that
19 you guys were on one accord when
20 it came to the arrest; is that
21 your understanding?

22 A We were on the same page,
23 yeah.

24 Q So after the arrest, what do
25 you do at that point?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Yeah, so once he was
3 arrested, as I said before, he
4 was brought to the back of the
5 ambulance to be checked out by
6 EMS. And my partner stayed with
7 him, I believe, in the back of
8 the ambulance, and I went to get
9 some more information from the
10 other individual that was
11 involved in the accident to get
12 his name and his side of things.

13 Q So you say, "his side of
14 things," his version --

15 A Of the accident, yeah.

16 Q So prior to arresting
17 Garfield Anthony Williams, you
18 had not gotten this other
19 individual's version of the
20 accident events?

21 A No.

22 Q Did you ever get Garfield
23 Anthony Williams' version of the
24 accident?

25 A Yes.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q When did you get that?

3 A You said "when"?

4 Q Um-hum.

5 A That would have been that
6 night.

7 Q Is that prior to arresting
8 him or after?

9 A It was most likely, probably
10 after he was placed under arrest.

11 Q You said, "It was most
12 likely." Does that mean you're
13 not sure?

14 A Yeah, I am not 100 sure if
15 it was prior to it or not.

16 Q It's a possibility that this
17 could have happened prior?

18 MR. GOSLING: Objection.

19 You could answer.

20 A That he told us his version
21 of the accident?

22 BY MR. LORD:

23 Q Yes.

24 A Yeah. Yes.

25 Q Okay. So you said that Mr.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 Williams was in the EMS ambulance
3 when you went to talk to the
4 other individual?

5 A Yes.

6 Q How long was that
7 conversation?

8 MR. GOSLING: Objection.
9 You can answer.

10 A It was approximately, five
11 -- five to six minutes.

12 BY MR. LORD:

13 Q What was the content of that
14 conversation? Just summarize.

15 MR. GOSLING: Objection.
16 You can answer.

17 A Yeah, I asked him in regards
18 to the accident like what
19 happened.

20 He said got rear-ended and
21 he had damage on the back of his
22 vehicle.

23 And also that when he saw
24 Mr. Garfield exit his vehicle, he
25 was stumbling and that he was

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 messed up.

3 BY MR. LORD:

4 Q Did you ask him what he
5 meant by "messed up"?

6 A I can't recall if I asked
7 him more about that statement.

8 Q Was there anything else that
9 was discussed at that time?

10 A Not that I could recall.

11 Q Did you ask him whether Mr.
12 Williams was intoxicated?

13 A I'm sorry?

14 Q Did you ask him whether Mr.
15 Williams was intoxicated?

16 A I can't recall if I
17 specifically asked him if he was
18 intoxicated.

19 Q Did he say that he thought
20 Mr. Williams was intoxicated to
21 you?

22 A I'm not sure, specifically,
23 if that's what he said, but based
24 off his statements of him
25 stumbling around and him

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 appearing to be messed up when he
3 got out of the car -- that's the
4 only thing that I recall that he
5 said to me.

6 Q So you -- is it fair to say
7 that you interpreted his comments
8 that Mr. Williams was messed up
9 and stumbled out of the car as an
10 issue of intoxication?

11 A Yes, it's definitely a sign
12 of impairment.

13 Q Did you --

14 MR. LORD: Withdrawn.

15 BY MR. LORD:

16 Q At this point, Mr. Williams
17 had already been placed under
18 arrest, correct?

19 A Yes.

20 Q So what happened after the
21 conversation with that
22 individual?

23 MR. GOSLING: Objection.

24 You can answer. Who are you
25 talking about?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. LORD: He doesn't know
3 his name, the Hispanic
4 individual in the car,
5 Mr. Jimenez.

6 MR. GOSLING: Can you just
7 rephrase the question?

8 MR. LORD: Okay.

9 BY MR. LORD:

10 Q What did you do after you
11 had the conversation with the
12 Hispanic man who was involved in
13 the car accident?

14 A Yeah, I went and got his ID,
15 HIS information for his vehicle
16 due to the vehicle accident, so
17 we had it for the accident
18 report. So that's all the
19 information I would have gotten
20 from him.

21 Q And then what after that?

22 A After that, he was free to
23 go. I don't know where he went
24 after that, but he was free to
25 go.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q What did you do after you
3 were done talking with him?

4 A Yeah, I went back to the
5 ambulance, and Officer Hernandez,
6 I believe, stayed in the
7 ambulance with the individual and
8 they transported them to the
9 hospital and I followed the
10 ambulance with my patrol vehicle.

11 Q How far away was the
12 ambulance from the scene of the
13 accident --

14 MR. LORD: Withdrawn.

15 BY MR. LORD:

16 Q How far away was the
17 hospital from the scene of the
18 accident?

19 A I'm not too sure how far it
20 was.

21 Q So do you remember how long
22 it took you to drive there?

23 A I can't recall exactly how
24 long it was. It wasn't a long
25 ride. It wasn't a long ride.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q So if it wasn't a long ride,
3 is it fair to say --

4 A I said, "it wasn't."

5 Q So was it under a half-hour?

6 A Yes.

7 Q Do you remember if it was
8 like under 20 minutes?

9 A Yes.

10 Q What happened when you
11 arrived at the hospital?

12 MR. GOSLING: Objection.

13 You could answer.

14 A He would have been seen by
15 medical professionals.

16 BY MR. LORD:

17 Q Now, you say, "He would have
18 been seen." Do you have an
19 independent recollection of what
20 happened?

21 A Yeah, he was seen by medical
22 professionals at the hospital.

23 Q Let's take this step by
24 step.

25 What part of the hospital

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 did you arrive at, what area?

3 A The emergency. Emergency
4 room.

5 Q What happened when you
6 arrived at the emergency room
7 immediately after arriving?

8 MR. GOSLING: Objection.

9 You can answer.

10 A Just waiting, waiting to be
11 seen, waiting for him to be seen
12 by doctors or nurses.

13 BY MR. LORD:

14 Q Were you with Mr. Williams
15 while you were waiting to be
16 seen?

17 MR. GOSLING: Objection.

18 Counsel, you mean while he
19 was --

20 MR. LORD: Yes.

21 MR. GOSLING: -- waiting
22 to be seen.

23 BY MR. LORD:

24 Q Were you with Mr. Williams
25 while he was waiting to be seen?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Yes.

3 Q Was Officer Hernandez with
4 you during this time?

5 A Yes.

6 Q Were there any conversations
7 between you and Mr. Williams
8 while you were waiting to be seen
9 -- when he was waiting to be
10 seen?

11 A No, I can't recall any
12 specific conversations.

13 Q Do you recall if Officer
14 Hernandez had any conversations
15 with Mr. Williams?

16 A No.

17 Q How long were you waiting
18 for Mr. Williams to be seen?

19 A I can't recall the lapse of
20 time.

21 Q Was it a long time, short
22 amount of time, not too long; do
23 you have any sense?

24 A I honestly don't know. I
25 mean, it was a long time ago and

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 I don't know. I can't recall how
3 busy they were at the time or how
4 many patients they had, but he
5 was seen in a reasonable amount
6 of time.

7 Q So based on your experience,
8 it wasn't unduly long, compared
9 to how long you had been waiting
10 in the past?

11 A Correct.

12 Q What happened when he was
13 seen by a medical professional?

14 MR. GOSLING: Objection.

15 You can answer.

16 A I think they were just
17 checking out his -- his
18 complaints of whatever he was
19 complaining about in regards to
20 the accident.

21 BY MR. LORD:

22 Q Do you know what he
23 complained about?

24 A No, I don't.

25 Q Was he checked out by a

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 nurse or a doctor, if you
3 remember?

4 A I can't recall which one.

5 Q Were you able to hear
6 anything he was saying to the
7 doctor or nurse?

8 MR. GOSLING: Objection.

9 You could answer.

10 A No, I can't remember
11 anything he said to any medical
12 professionals.

13 BY MR. LORD:

14 Q You were able to hear, you
15 just can't remember; is that fair
16 to say?

17 A I would have heard it, yeah,
18 but due to the lapse of time, I
19 can't recall, specifically, what
20 was said.

21 Q And Mr. Williams was in
22 handcuffs this entire time; is
23 that correct?

24 A Yeah, he would have been
25 handcuffed to the bed, to the

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 hospital bed.

3 Q So do you remember how long
4 he was checked out by the medical
5 professional?

6 MR. GOSLING: Objection.
7 You can answer.

8 A No, I can't remember how
9 long -- how long it took.

10 BY MR. LORD:

11 Q What happened after he was
12 done being examined?

13 MR. GOSLING: Objection.
14 You can answer.

15 A Yeah, I know we requested
16 highway to the hospital to do
17 testing in regards to his arrest.

18 BY MR. LORD:

19 Q You made that request after
20 he was examined by the medical
21 professional?

22 A No, I requested it before.
23 Before that.

24 Q Do you know how long before
25 that?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A It most likely would have
3 been on the -- when we were on
4 the way to the hospital.

5 Q You said, "most likely."
6 Does that mean you're not
7 entirely sure?

8 A Yeah, I'm not sure exactly
9 what time. I know before
10 arriving to the hospital, I
11 already -- I requested --
12 requested highway to the
13 hospital.

14 Q Did you tell any of the
15 medical professionals what he was
16 arrested for?

17 A I can't recall if I did --
18 if we did or not.

19 Q Officer Hernandez was with
20 you that entire time, correct?

21 A Yes, he was.

22 Q So you don't remember if
23 Officer Hernandez informed the
24 medical professionals either?

25 A Yeah, I don't know.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q So what happened when the
3 I.D.T.U. Technician arrived?

4 A I know that no testing was
5 done based off of refusal.

6 Q So you say, "refusal." Who
7 refused?

8 A Mr. Garfield.

9 Q Mr. Williams?

10 A Williams, sorry. Mr.
11 Williams.

12 Q How did he refuse?

13 A Verbally.

14 Q So he was asked verbally
15 whether he would take the test
16 and he said, "no"?

17 A Yes.

18 Q Was anybody else present
19 when this took place?

20 A I believe the -- the
21 individual claiming to be his
22 attorney, I think he showed up.
23 He was advising him, I believe to
24 not -- to not do any testing.

25 Q So this individual was

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 telling Mr. Williams that he
3 should not do the test, that you
4 heard him say that?

5 A Yes.

6 Q And Mr. Williams told you he
7 was not going to do that test,
8 correct?

9 A He told highway. He was
10 asking him questions. Yeah, he
11 told hem.

12 Q Were there any other
13 questions that were asked by the
14 highway technician?

15 A Yeah, I can't recall any
16 specific questions that were
17 asked by them.

18 Q Do you recall if any of
19 these questions were answered?

20 A No.

21 Q So at that point after he
22 refused, in your opinion, do you
23 still have probable cause to
24 arrest him for driving while
25 intoxicated?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Yes.

3 Q Why was that?

4 A Based on our observations on
5 scene.

6 Q Did you talk to the I.D.T.U.
7 technician about whether the
8 technician thought that Mr.
9 Williams was intoxicated?

10 A I can't recall if I did.

11 Q Are you aware of the
12 I.D.T.U. Technician's opinion of
13 whether Mr. Williams was
14 intoxicated?

15 MR. GOSLING: Objection.

16 You can answer.

17 A No, I can't recall his
18 opinion.

19 BY MR. LORD:

20 Q Did you use the refusal as
21 consciousness of guilt for the
22 crime that you allege he
23 committed?

24 MR. GOSLING: Objection.

25 You could answer.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A No.

3 BY MR. LORD:

4 Q So did the refusal take any
5 role or part in the arrest?

6 MR. GOSLING: Objection.

7 You can answer.

8 A No, the refusal alone -- he
9 was already arrested before he
10 refused the testing.

11 BY MR. LORD:

12 Q Were you ever informed that
13 a refusal can be used as a basis
14 for an arrest?

15 MR. GOSLING: Objection.

16 You can answer.

17 A Yeah, I believe it would be
18 another charge, I believe, added.

19 BY MR. LORD:

20 Q So did you add that charge
21 in this instance?

22 A No, I can't recall if
23 additional charges were added.

24 Q Were you ever informed that
25 the refusal took place more than

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 two hours after his arrest?

3 MR. GOSLING: Objection.

4 You could answer.

5 A I'm sorry. Say that again.

6 BY MR. LORD:

7 Q Were you ever informed that
8 the refusal took place more than
9 two hours after his arrest?

10 MR. GOSLING: Objection.

11 You could answer.

12 A No, I can't recall the time
13 -- the timeframe.

14 BY MR. LORD:

15 Q So my question is: Did
16 anyone tell you that the request
17 for refusal was more than two
18 hours after he was arrested?

19 MR. GOSLING: Objection.

20 You can answer.

21 A No, I can't remember that.

22 BY MR. LORD:

23 Q Were you ever trained on the
24 impact of asking for a
25 Breathalyzer test more than two

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 hours after an arrest?

3 A I -- I can't recall if I did
4 training on that, no.

5 Q As you understand it now, is
6 a person allowed to refuse a
7 Breathalyzer test if it has been
8 more than two hours?

9 MR. GOSLING: Objection.

10 You can answer.

11 A Yes.

12 BY MR. LORD:

13 Q When Mr. Williams refused
14 his Breathalyzer test, had it
15 been more than two hours after he
16 had been arrested?

17 MR. GOSLING: Objection.

18 Objection. You could answer.

19 A I can't recall if it was
20 more than two hours. If it was,
21 it was, but I can't recall
22 exactly how long it was.

23 BY MR. LORD:

24 Q So you said that, after he
25 refused the test, you believe

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 that you still had probable cause
3 to arrest him for driving while
4 intoxicated?

5 A Yes.

6 Q When you were forming that
7 basis to arrest him for driving
8 while intoxicated, you did not
9 include his refusal as part of
10 the factors you considered?

11 A You're asking me if --
12 because there was not another
13 charge added to that, is that
14 what you're saying?

15 Q I'm asking you whether his
16 refusal to take a chemical test
17 was a factor in determining
18 whether you had probable cause to
19 arrest him?

20 A No, we had probable cause to
21 arrest him before -- before he
22 got to the hospital.

23 Q I understand what you're
24 saying.

25 My question is whether the

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 refusal was a factor in whether
3 you had probable cause to arrest
4 him.

5 Did you add that in to the
6 determination, based on what
7 happened?

8 MR. GOSLING: Objection.

9 You can answer.

10 A No.

11 BY MR. LORD:

12 Q So your basis for arresting
13 Mr. Williams was based solely on
14 what you observed and saw when
15 you arrested him on the scene?

16 A Yes, and what the -- the
17 complainant had mentioned before.

18 Q So what impact did the
19 complainant's statements have on
20 whether you thought there was
21 probable cause to arrest Mr.
22 Williams?

23 A Based off his statements, it
24 lined up to what we had observed
25 as far as the signs that I had

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 mentioned before. Like the odor
3 of alcohol on his breath, slurred
4 speech, his eyes bloodshot and
5 watery.

6 Q So you said earlier that you
7 spoke to the Hispanic individual
8 after Mr. Williams was placed
9 under arrest, correct?

10 A Yes.

11 Q So the statements that you
12 learned about his condition at
13 the accident was after he had
14 already been arrested?

15 A Yes.

16 Q And you used those
17 statements as a basis to continue
18 to believe that you had probable
19 cause to arrest Mr. Williams?

20 A What do you mean by "used"?

21 Q Well, I asked you this --
22 how do you -- in your opinion,
23 how do you make a determination
24 whether someone is driving while
25 intoxicated or not?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 What factors do you use?

3 A The ones I stated. Alcohol,
4 yeah.

5 Q Would you agree that not all
6 of those factors are necessarily
7 respondent in terms of whether he
8 was intoxicated?

9 MR. GOSLING: Objection.

10 You could answer.

11 A Like --

12 BY MR. LORD:

13 Q I will rephrase.

14 None of the factors in and
15 of itself were suggesting he was
16 intoxicated, right?

17 For example, bloodshot red,
18 watery eyes. If that's all he
19 had, he would not be intoxicated.

20 Would you agree with that
21 statement or no?

22 A I would agree that it was
23 accumulative of things.

24 Q Can you just describe what
25 cumulative things that you base

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 your determination was probable
3 cause on?

4 A Yeah, the moderate smell of
5 alcohol that was coming off his
6 breath, the slurred speech, and
7 his watery eyes and bloodshot
8 eyes, and the fact that he was
9 involved in a vehicle accident.

10 Q Why did the fact he was
11 involved in a vehicle accident
12 play a factor in whether you
13 thought he was intoxicated?

14 A Well, having those signs of
15 impairment and then an accident
16 that occurred, you know, based
17 off -- I've had prior arrests
18 where there was accidents
19 involved with drinking and
20 driving, and that's something
21 that should be looked at.

22 Q At any point did you ask any
23 medical professional whether they
24 thought he was intoxicated?

25 A I don't recall if I asked

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 any medical professional. You
3 mean like at the hospital, no.

4 Q At the hospital or either
5 EMS?

6 A No, I can't recall.

7 Q So I want to direct your
8 attention to the time when he has
9 just refused this chemical test.

10 What happens after that?

11 A After he refuses?

12 Q Yes.

13 A We would have waited until
14 he got discharged from the
15 hospital.

16 Q Do you remember how long
17 that took?

18 A Not too much longer, I
19 believe, after -- after that
20 refusal.

21 Q So what happened after that,
22 after he was discharged?

23 A He would have been brought
24 back to the precinct for arrest
25 processing.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q Were you present when he was
3 brought back to the precinct for
4 arrest processing?

5 A Yes, I would have been back
6 at the precinct when he was, too.

7 Q Were you involved in the
8 arrest processing for Mr.
9 Williams?

10 A Yes.

11 Q So what did you do for the
12 arrest process?

13 A I believe I did the arrest
14 report.

15 Q Did you do anything else?

16 A Not that I recall.

17 Q Were you listed as the
18 arresting officer?

19 A No, I'm not the arresting
20 officer.

21 Q Is there a reason why you
22 were not listed as the arresting
23 officer?

24 A My partner took the arrest,
25 so I wouldn't be the arresting

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 officer.

3 Q When it comes to "arresting
4 officer," is that a title?

5 You guys decide who -- who
6 would get the title?

7 A Sorry. Say that question
8 again.

9 Q Is "arresting officer" a
10 title, or is it a designation for
11 the person who actually made the
12 arrest?

13 A Yeah, the person -- the -- I
14 mean, just because you put
15 handcuffs on -- someone puts
16 handcuffs on somebody else, that
17 doesn't mean that has to be that
18 person's arrest. Someone else
19 could take the arrest, if that
20 answers your question.

21 Q Yes, it does.

22 In this instance, did you or
23 Officer Hernandez put handcuffs
24 on Mr. Williams?

25 A I believe it was me who put

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 handcuffs.

3 Q How long did it take to
4 process Mr. Williams' paperwork?

5 A I can't recall how long it
6 takes.

7 Q Do you remember when your
8 shift was over?

9 MR. GOSLING: Objection.

10 You can answer.

11 A Yes, 7:50 a.m. is my end of
12 tour time.

13 BY MR. LORD:

14 Q Did you work overtime on
15 that day?

16 A I can't recall. I don't
17 think I stayed overtime.

18 Q Would your memo book entry
19 have information whether you
20 stayed overtime or not?

21 A Yes.

22 Q So do you remember if you
23 left at 7:50 or you stayed past
24 7:50?

25 MR. GOSLING: Objection.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 You can answer.

3 A I can't recall if I stayed
4 past 7:50 or not.

5 BY MR. LORD:

6 Q At any point, did you talk
7 to the District Attorney's office
8 about the arrest?

9 A No.

10 Q Were you present when
11 Officer Hernandez spoke with the
12 District Attorney's office about
13 the arrest?

14 A No.

15 Q Did you have any involvement
16 with the District Attorney's
17 office regarding the arrest?

18 A No.

19 Q When you left work for the
20 day, was Mr. Williams still in
21 custody?

22 A Yes.

23 Q Are you aware of,
24 ultimately, what happened to Mr.
25 Williams in regards to whether he

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 stayed in custody or was
3 released?

4 MR. GOSLING: Objection.
5 You can answer.

6 A No, I don't recall.

7 BY MR. LORD:

8 Q Do you know if Mr. Williams
9 was ultimately charged with a
10 crime?

11 MR. GOSLING: Objection.
12 You can answer.

13 A No.

14 BY MR. LORD:

15 Q Did you have any
16 conversations with your partner
17 afterwards, regarding what
18 happened to Mr. Williams?

19 A Yes, at some point, he had
20 told me the case, I think, got --
21 I think it was declined to
22 prosecute.

23 Q Did he say why the case got
24 declined to prosecute?

25 A I can't recall if he said

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 exactly why or not.

3 Q What do you think of the
4 decision to decline to prosecute
5 the case?

6 MR. GOSLING: Objection.

7 You can answer.

8 A It's not really my opinion
9 on whether a case gets prosecuted
10 or not. That's not my -- that's
11 not my job.

12 BY MR. LORD:

13 Q I understand.

14 So you don't have an opinion
15 on it?

16 A No, I just do what my
17 responsibilities as a police
18 officer is. What happens after
19 that is not up to me.

20 Q If a District Attorney
21 declines to prosecute a case, do
22 you evaluate whether you made the
23 right decision in arresting that
24 individual?

25 A No, because I know if I

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 effected an arrest, I had
3 probable cause to do it.

4 Q So knowing now that Mr --
5 that the District Attorney
6 declined to prosecute Mr.
7 Williams, do you still think his
8 arrest was justified, based on
9 probable cause --

10 A Yes.

11 MR. LORD: One brief
12 moment. Okay. So I'm just
13 going to share screen. One
14 second.

15 (At which time, counsel
16 screen shared the document
17 with the witness and all
18 parties.)

19 MR. LORD: I'm looking at
20 the arrest report labeled
21 Defendants' Exhibit 16 through
22 18.

23 MR. GOSLING: Counsel, are
24 you going to be entering that
25 as an exhibit?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. LORD: Yes, I'm
3 entering it as an exhibit. I
4 am informing you. Actually --

5 One second. I'm sorry.

6 (At which time, there
7 was a brief pause in the
8 proceedings.)

9 MR. GOSLING: What are you
10 going to have it marked as?

11 MR. LORD: It's Exhibit 1.
12 So this is Bates Number 16 to
13 19. I'm going to attempt to
14 share my screen.

15 (At which time, counsel
16 screen shared the exhibit
17 with the witness and all
18 parties.)

19 BY MR. LORD:

20 Q Can you see this document?

21 A Yeah.

22 Q Okay.

23 MR. GOSLING: Just for
24 completeness, can we just let
25 him review the entire document

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 before there's any questions?

3 MR. LORD: Yeah, I was
4 going to give him an
5 opportunity to do that.

6 BY MR. LORD:

7 Q I'm going to scroll down.

8 (At which time, counsel
9 scrolled through the exhibit
10 for the witness and all
11 parties.)

12 BY MR. LORD:

13 Q If I need to zoom in or
14 scroll out, let me know. I can
15 go slower or faster.

16 A Okay.

17 Q Have you had an opportunity
18 to review this document?

19 A Yes.

20 MR. LORD: I'm going to
21 mark it as Exhibit 1 for
22 identification, Plaintiff's
23 Exhibit 1.

24 * * * * *

25 (New York City Police

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 Department Arrest Report -
3 B19649648, Bates stamped
4 D_00016 to D_00019,
5 consisting of 4 pages was
6 marked as Plaintiff's
7 Exhibit 1 for identification
8 as of this date by the Court
9 Reporter; attached hereto.)

10 * * * * *

11 BY MR. LORD:

12 Q Now, Officer Ottaviano, can
13 you please let us know what this
14 document is?

15 A Yeah, that's the -- that's
16 what we call the arrest report.

17 Q Who filled out this
18 document?

19 A I did.

20 Q You said the arrest date was
21 12/15/2019?

22 A Yes, that's what I said on
23 there.

24 Q You said the arrest happened
25 at 2:15?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Yeah, that would have been
3 the arrest time.

4 Q So I'm looking right now at
5 the details section. You said
6 that Mr. Williams was swaying and
7 stumbling balance, correct?

8 Did you write that?

9 A That would have been a
10 story. So when we do the arrest
11 report, usually, before you enter
12 it, you know, you write it down
13 first on paper to make sure it's
14 -- you know, it sounds -- sounds
15 accurate in what you want to do
16 before you put it on the final
17 document. So that's what we --
18 Officer Hernandez, too, knew that
19 that was going to be entered.
20 And based on his understanding
21 and observation as well, that's
22 what happened.

23 Q So do you have a copy of the
24 original document that was
25 handwritten?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A No.

3 Q You said, "no"?

4 A I said, "no."

5 Q Are the original handwritten
6 documents preserved in any way?

7 A Are they what?

8 Q Are they preserved in any
9 way?

10 MR. GOSLING: Objection.

11 You can answer, if you know.

12 A No.

13 BY MR. LORD:

14 Q So when you have an original
15 handwritten version of the arrest
16 report, what do you do with that
17 document?

18 A When I have an original
19 version of it?

20 Q Yeah, the handwritten
21 version.

22 A I'm sorry. Let me be clear.
23 I didn't have a handwritten
24 version of this, the whole
25 report. It was just a story, a

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 rough copy, of the story before
3 we put it in.

4 Q You wrote that down
5 somewhere?

6 A It would have been on a
7 piece of just like ripped up
8 paper.

9 Q And you no longer have that
10 ripped up paper; is that what
11 you're saying?

12 A No.

13 Q So this story was written in
14 coordination with Officer
15 Hernandez; is that fair to say?

16 A Yes.

17 Q So you say that the
18 arresting officer observed --

19 MR. LORD: Withdrawn.

20 BY MR. LORD:

21 Q (Reading from Document)

22 I'll read the whole
23 sentence.

24 "At TPO A/O observed the
25 defendant with a moderate odor of

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 alcohol coming from defendant's
3 breath, defendant had watery
4 bloodshot eyes, and also was
5 swaying and stumbling."

6 Did I read that sentence
7 correctly?

8 A Yes.

9 Q So are you saying that the
10 arresting officer observed Mr.
11 Williams swaying and stumbling?

12 A Yes.

13 Q Didn't you testify earlier
14 that when you went on the scene,
15 that Mr. Williams was in the car,
16 correct?

17 A Yes.

18 Q And he never left the car
19 prior to you arresting him,
20 correct?

21 A Prior, no.

22 Q Okay. So when did you see
23 Mr. Williams swaying and
24 stumbling?

25 A Well, Officer Hernandez took

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 him to -- escorted him to the
3 ambulance. I mean, that would be
4 him -- him saying, obviously, you
5 saw him swaying. It's in the
6 report, so that would have been
7 his observation.

8 Q So what you wrote is that,
9 after he was arrested, Officer
10 Hernandez observed him swaying
11 and stumbling?

12 A "At TPO, A/O observed him,"
13 so he was on scene.

14 Q So he was on the scene, but
15 it was after the arrest; is that
16 fair to say?

17 MR. GOSLING: Objection.

18 You can answer.

19 A Yeah, you mean like after he
20 was in handcuffs? Is that what
21 you're talking about?

22 BY MR. LORD:

23 Q I just want to be clear.
24 When he is placed in
25 handcuffs, he is under arrest,

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 right?

3 A Yes.

4 Q So these observations of him
5 swaying and stumbling happened
6 after he was under arrest?

7 A The -- the watery and
8 bloodshot eyes were, obviously,
9 prior to the arrest. That's what
10 we observed in the vehicle. And
11 there's moderate alcohol on his
12 breath, yes, was prior to him
13 being placed under arrest. The
14 swaying part would have been
15 observed during -- during, as he
16 was arrested.

17 Q It would be after he was
18 arrested because you said this
19 occurred when he was being walked
20 over to the ambulance, correct?

21 MR. GOSLING: Objection.

22 You can answer.

23 A If I recall properly, yes,
24 but...

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q Okay. So is it fair to say
4 that, while he was walking over
5 to the ambulance, he was already
6 under arrest?

7 A He was already under arrest
8 at that point.

9 Q So this says -- and I'm
10 reading the next sentence, "A/O
11 was informed by Detective Leon
12 from ESU badge number 4232 that
13 he was first on the scene."

14 Were you present for that --

15 MR. LORD: Withdrawn.

16 BY MR. LORD:

17 Q Did I read that correctly?

18 A Yes.

19 Q And that was the entire
20 sentence?

21 A And that was what?

22 Q That was the entire
23 sentence?

24 A "A/O was informed by
25 Detective Leon from ESU badge

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 number 4232 that he was first on
3 scene."

4 Q Now, were you present for
5 that conversation?

6 MR. GOSLING: Objection.

7 You can answer.

8 A I can't recall if -- if I
9 was next to him during that
10 conversation.

11 BY MR. LORD:

12 Q You're saying you can't
13 recall?

14 A No.

15 Q Do you recall witnessing
16 this conversation?

17 A No, I can't recall.

18 MR. GOSLING: I'm going to
19 object.

20 I think it's a little bit
21 of a mischaracterization as far
22 as conversation being thrown
23 around. That's not --

24 Just to be clear for the
25 record, that's not --

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 The arrest report doesn't
3 say anything about a
4 conversation.

5 MR. LORD: I will make the
6 record clear that when I use
7 the word "conversation," I was
8 referring solely to the
9 sentence where it says that A/O
10 was informed.

11 That's what I meant by
12 "conversation," so that there's
13 no confusion of that. I did
14 not mean anything else.

15 BY MR. LORD:

16 Q (Reading from Document)

17 Okay. I'm going to read the
18 next sentence.

19 "Defendant was then taken to
20 Jacobi Hospital emergency room
21 for complaint of neck and back
22 pain from the vehicle accident."

23 Did I read that sentence
24 correctly?

25 A Where are you?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q Right here.

3 A (Reading from Document)

4 Yeah, "Defendant was then
5 taken to Jacobi Hospital
6 emergency room for complaint of
7 neck and back pain from the
8 vehicle accident."

9 Q Does this sentence refresh
10 your recollection as to what the
11 pain Mr. Williams complained of?

12 A Yes, based off reading that
13 sentence, his neck and back.

14 Q Do you remember any other
15 complaints that he may have had?

16 A No.

17 Q I'm going to read the next
18 sentence. "Defendant was
19 medically clear with no
20 injuries." That's the sentence.

21 Did I read that sentence
22 correctly?

23 A Yes.

24 Q When you say he was
25 medically cleared with no

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 injuries, who would make that
3 medical clearance?

4 A That would have been the
5 medical staff that treated him,
6 that saw him.

7 Q So the medical staff
8 informed you that he had no
9 injuries?

10 A Yes.

11 Q What do you mean by, "no
12 injuries"?

13 A He didn't have any. Wasn't
14 aware to us. Based off him being
15 discharged, he didn't have any
16 broken bones, anything that would
17 require him to stay at the
18 hospital any longer for
19 treatment.

20 Q In your opinion, if you're
21 discharged from the hospital,
22 that means you have no
23 injuries --

24 MR. LORD: Withdrawn.

25 A No. Obviously, eventually,

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 you would get discharged from the
3 hospital, even after an injury.

4 BY MR. LORD:

5 Q "No injuries" means, in your
6 opinion, that he never suffer any
7 type of injury at all?

8 MR. GOSLING: Objection.

9 You can answer.

10 A Yes.

11 BY MR. LORD:

12 Q You say you were informed of
13 this by a medical professional?

14 A Yes.

15 Q (Reading from Document)

16 I'll read the next sentence.

17 "IDT responded to hospital for
18 testing and refused all tests.

19 The defendant was accompanied by
20 an attorney."

21 Did I read that sentence
22 correctly?

23 A Yes.

24 Q So this then confirms --

25 You mentioned earlier that

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 IDT responded to the hospital.

3 This confirms that, correct?

4 A It does.

5 Q So you say, the defendant
6 was accompanied by an attorney.

7 Who was his attorney?

8 A I can't recall his name.

9 Q Was the individual who
10 identified himself as an attorney
11 the same one who was at the scene
12 of the accident?

13 A Yes.

14 Q Is there a reason why, when
15 he's at the hospital, you
16 considered him an attorney, but
17 you did not at the scene?

18 A I believe more at the
19 hospital he was more adamant that
20 he was an attorney and that he
21 was there for his -- for that
22 person.

23 Q So because he wasn't adamant
24 to a certain extent, initially,
25 that you disregarded him as

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Mr. Williams' attorney?

3 MR. GOSLING: Objection.

4 You can answer.

5 A No, I wouldn't say,

6 "disregarded."

7 BY MR. LORD:

8 Q How would you describe it?

9 A At the scene we still had to
10 conduct an investigation and
11 we're allowed to ask certain
12 questions about what happened to
13 him as far as the accident, for
14 both parties, and information
15 that we would need, regardless if
16 an attorney was there or not.

17 Q So your opinion is that,
18 even if he's represented by a
19 Counsel, you're allowed to ask
20 him directly about the details of
21 an accident?

22 A Yes, that he was involved
23 in, yes, to get his pedigree
24 information.

25 Q Okay. But you said earlier

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 that you're allowed to ask him
3 the details of the accident,
4 correct?

5 A Yeah, as far as what
6 happened from the accident, yes.

7 Q So you would agree with me
8 that, asking him about what
9 happened in the accident is more
10 than just pedigree information?

11 A Yes.

12 Q And even regarding pedigree
13 information, is there a reason
14 why he couldn't ask his attorney
15 to collect that information?

16 MR. GOSLING: Objection.

17 You can answer.

18 A Well, I don't believe at any
19 point he refused to give us any
20 information like that in regards
21 to an accident report or just his
22 name and say that he wasn't going
23 to answer any questions in
24 regards to that.

25

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q So you're saying, at no
4 point while you were on the scene
5 did the attorney indicate that
6 Mr. Williams would not answer any
7 questions?

8 MR. GOSLING: Objection.

9 You can answer.

10 A No, as far as him saying
11 that, I can't recall. I'm
12 talking about the individual with
13 Mr. Williams -- is that correct?

14 BY MR. LORD:

15 Q Okay. So if Mr --

16 MR. LORD: Withdrawn.

17 BY MR. LORD:

18 Q In your opinion,
19 Mr. Williams had to tell you
20 verbally that he is not going to
21 say anything, his attorney could
22 not do it for him?

23 MR. GOSLING: Objection.

24 You can answer.

25 A No, his attorney could speak

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 for him, yes.

3 BY MR. LORD:

4 Q But you don't have a memory
5 of whether the attorney spoke for
6 him or not?

7 A No, I can't recall. I know,
8 specifically, at the hospital, he
9 mentioned to not answer any --
10 refused a test and not answer any
11 of those questions.

12 Q The last thing I want to
13 confirm, this report was entered
14 by -- this is your name?

15 A Yeah, that's me. Yep.

16 Q And that is your name
17 because you are, in fact, the
18 person who entered the report,
19 correct?

20 A Correct.

21 Q This is "assisting officer,"
22 and that's your name as well?

23 A Yes.

24 Q And you're labeled
25 "assisting officer" because you

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 and Officer Hernandez are
3 partners; is that correct?

4 A Correct.

5 MR. LORD: We will stop
6 sharing at this point.

7 (At which time, counsel
8 stopped screen sharing the
9 exhibit.)

10 MR. LORD: I just have one
11 more thing.

12 So I am going to be
13 playing what I will mark as
14 Plaintiff's Exhibit 2.

15 This is the body-cam
16 footage dated 2019-12-15
17 underscore 01-50-16. This is
18 just for, you know, for
19 purposes -- this is when he is
20 placed in handcuffs, if you
21 wanted to do an independent.

22 So I'm going make that big
23 and then I am going to share
24 screen.

25 (At which time, counsel

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 screen shared the exhibit
3 with the witness and all
4 parties.)

5 * * * * *
6 (Plaintiff's Exhibit 2
7 was NOT marked during the
8 deposition as indicated by
9 counsel.)

10 * * * * *

11
12 MR. LORD: Can you see
13 this still of a video?

14 MR. GOSLING: No. You
15 haven't shared the screen yet.

16 MR. LORD: Okay. Can you
17 see it?

18 (At which time, counsel
19 screen shared the exhibit
20 with the witness and all
21 parties.)

22 MR. GOSLING: We could see
23 it now, yeah.

24 MR. LORD: So what I'm
25 going to do -- I'm not going to

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 play the entire thing. I am
3 going to play like the first, I
4 think, minute, 30 seconds. I'm
5 going to let it play, and then
6 I'm going to ask you questions
7 about.

8 THE WITNESS: Whose body
9 camera is this?

10 MR. LORD: I'm not sure
11 whose body camera this is. I
12 was given this by your
13 attorney. You can ask him.

14 I'm going to start playing
15 now. The sound is on.

16 (At which time, counsel
17 screen shared and played the
18 video with the witness and
19 all parties.)

20 MR. GOSLING: We can't
21 hear anything.

22 THE WITNESS: There is no
23 audio.

24 MR. LORD: There is no
25 audio. It hasn't kicked in

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 yet.

3 (At which time, counsel
4 screen shared and played the
5 video with the witness and
6 all parties.)

7 MR. LORD: Can you hear it
8 now?

9 MR. GOSLING: It's very
10 low.

11 MR. LORD: I will raise
12 the volume.

13 MR. GOSLING: Can you
14 pause it for a second?

15 MR. LORD: Yeah, no
16 problem.

17 MR. GOSLING: So just so
18 you're aware, I can hear
19 whatever is coming through on
20 the radio loud, but I can't
21 really hear conversations, to
22 the extent there are any right
23 now, between, you know, your
24 client and whatever else is
25 happening in the video. It's

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 just the radio that we can
3 hear.

4 MR. LORD: It was at the
5 maximum volume.

6 I will not ask questions
7 about any conversation, so if
8 that's an issue, I'll make sure
9 I don't ask.

10 (At which time, counsel
11 screen shared and played the
12 video with the witness and
13 all parties.)

14 BY MR. LORD:

15 Q So I'm stopping the video,
16 the video ending 01-50-16 at one
17 minute and 40 seconds.

18 Officer Ottaviano, was this
19 your body cam, or was it someone
20 else's?

21 A It appears to be my body
22 camera.

23 Q What did we just see in that
24 one minute and 40 second segment?

25 A You would have just seen the

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 defendant in the back of the
3 seat, the vehicle, and asking him
4 some sort of question about the
5 incident and him being placed
6 under arrest.

7 MR. GOSLING: Just to be
8 clear for the record, when he
9 says "Defendant," I believe he
10 is referring to Mr. Williams.

11 THE WITNESS: Yes.

12 BY MR. LORD:

13 Q So this body-cam video has a
14 timestamp; is that correct?

15 A Yes.

16 Q What does the timestamp say?

17 A 1:51.

18 Q Is that 1:51 a.m.?

19 A Yes.

20 Q So is it fair to say Mr.
21 Williams was placed under arrest
22 at, approximately, 1:51 a.m.?

23 A Well, that's when he would
24 have been handcuffed, but not
25 necessarily -- because if you put

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 someone in handcuffs right away,
3 that doesn't mean that's the
4 exact arrest time. The arrest
5 time is when you put it over to
6 Central on the radio. It's
7 normal for there to be a little,
8 you know, a little delay. And
9 sometimes the camera or the time
10 on that isn't always accurate.

11 Q So you're saying that the
12 official arrest time is the time
13 when the arrest is reported to
14 the Central Precinct, not
15 necessarily when an individual is
16 placed in handcuffs, correct?

17 A Correct.

18 Q In this instance, when you
19 place him in handcuffs, you place
20 him in handcuffs because he was
21 under arrest at this time?

22 A Yeah, at that time he wasn't
23 free to leave.

24 Q So you just may have
25 reported this incident to Central

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 at a later time than the time he
3 was actually arrested?

4 A Yeah, after -- after getting
5 him medical attention and
6 finishing up on scene, by the
7 time -- yeah, I put the arrest
8 time, which was shown on the
9 arrest report.

10 MR. LORD: So I'm stopping
11 the share at this point.

12 (At which time, counsel
13 stopped screen sharing the
14 exhibit.)

15 MR. LORD: I believe I
16 have no further questions.

17 MR. GOSLING: Can we take
18 ten minutes, and I just have a
19 couple of things?

20 MR. LORD: That's fine.
21 So like 1:15, around that time?

22 MR. GOSLING: 1:15 is
23 good.

24 MR. LORD: All right. See
25 you soon.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 * * * * *

3 (At which time, a brief
4 recess was held until 1:15
5 p.m.)

6 * * * * *

7 MR. GOSLING: Just a
8 couple of questions.

9 EXAMINATION

10 BY MR. GOSLING:

11 Q Good afternoon, Police
12 Officer Ottaviano.

13 Who from NYPD conducts
14 Breathalyzer testing?

15 A Highway does, usually, from
16 the 45th Precinct.

17 Q That's a highway -- is there
18 a name for that division?

19 A I.D.T.U. is the testing that
20 they do. Yeah, just highway
21 officer.

22 Q Do you work as a highway
23 officer or I.D.T.U.?

24 A No, I don't.

25 Q When Mr. Williams was

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 arrested for suspicions of
3 driving while intoxicated, was
4 that based on your visual
5 observations from what happened
6 when you were on the scene?

7 A Yes.

8 Q When you -- the accident
9 happened on December 15th,
10 2019 --

11 MR. GOSLING: Withdrawn.

12 BY MR. GOSLING:

13 Q When you responded to the
14 accident, that was on the
15 December 15th, 2019?

16 A Yes.

17 Q That was on the Bronx River
18 Highway?

19 A Yes.

20 Q How many lanes of -- were
21 there at the scene of the
22 accident?

23 A Approximately, I think there
24 was like three or four lanes.

25 Q When you indicated before --

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. GOSLING: Withdrawn.

3 BY MR. GOSLING:

4 Q Were you the arresting
5 officer for this incident?

6 A No.

7 Q When Counsel showed you the
8 arrest report before -- is it
9 possible we can just bring that
10 back up?

11 MR. GOSLING: Give me one
12 brief second. Let me share
13 screen.

14 (At which time, counsel
15 screen shared the exhibit
16 with the witness and all
17 parties.)

18 MR. GOSLING: Okay. Can
19 you guys see it?

20 MR. LORD: Yeah.

21 Can you just actually
22 bring it up to the description
23 part?

24 MR. GOSLING: Yeah. Here
25 we go. Right here. The

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 details section right here?

3 MR. LORD: Yeah.

4 MR. GOSLING: I'll leave
5 it here.

6 BY MR. GOSLING:

7 Q Officer Ottaviano, when it
8 says at time --
9 TPO A/O, what does "A/O"
10 mean?

11 A Arresting officer.

12 Q That was not you, was it?

13 A No, I'm not the arresting
14 officer.

15 Q Does this report indicate
16 who the arresting officer was?

17 A Yes.

18 MR. GOSLING: You want me
19 to scroll down to it, the
20 section?

21 MR. LORD: Yes, please, at
22 the bottom.

23 MR. GOSLING: Let the
24 record reflect --

25 I'm sorry, what the Bates,

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO
2 just so I could be clear?

3 MR. LORD: 19.

4 MR. GOSLING: Let the
5 record reflect that we are now
6 showing the witness what was
7 Bates marked as D underscore
8 00019. Sorry. I didn't know
9 how many 0s were there.

10 BY MR. GOSLING:

11 Q (Reading from Document)
12 Where it says "arresting
13 officer, officer's name," can you
14 read what that says?

15 A Yes. It's Officer
16 Hernandez, Oscar.

17 MR. GOSLING: I have no
18 further questions.

19 MR. LORD: I think we are
20 done then.

21 THE REPORTER: Can someone
22 send me the exhibits?

23 MR. LORD: Yes. I'll send
24 them right now.

25 Off the record.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 (At which time, a
3 discussion was held off the
4 record.)

5 MR. GOSLING: Let me put
6 something on the record.

7 Defendants would like to
8 renew their requests for the
9 releases that were previously
10 sent to Plaintiff for the
11 T-Mobile, Progressive
12 Insurance, among others, I
13 think, it was taxes as well,
14 that was served on you,
15 approximately, two weeks ago,
16 just in light of discovery
17 pending within the next week or
18 so.

19 **REQUEST**

20 MR. LORD: Yes.

21 Just so we're clear, I did
22 respond and we're going to get
23 those out tomorrow. So that's
24 -- hopefully, we can do that
25 tomorrow.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. GOSLING: All right.

3 Thank you.

4 Off the record.

5 (At which time, a
6 discussion was held off the
7 record.)

8 * * * * *

9 (At which time, 1:27
10 p.m., the examination of
11 POLICE OFFICER JOSEPH
12 OTTAVIANO concluded.)
13
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This is the Deposition of
POLICE OFFICER JOSEPH OTTAVIANO
taken in the matter, on the date, and
at the time and place set out on the
title page hereof.

It was requested that the deposition be
taken by the reporter and that same
be reduced to typewritten form.

It was agreed by and between counsel
and the parties that the Deponent
will read and sign the transcript of
said deposition.

REPORTER'S CERTIFICATION

I, LAURA ANTIDORMI, a Court Reporter
and Notary Public certified in and for the
State of New York, do hereby certify that I
recorded stenographically the proceedings
herein at the time and place noted in the
heading hereof, and that the foregoing
transcript is true and accurate to the best of
my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto
set my hand.

LAURA ANTIDORMI

DEPONENT'S CERTIFICATE

STATE OF _____:

COUNTY/CITY OF _____:

Before me, this day, personally
appeared POLICE OFFICER JOSEPH OTTAVIANO, who,
being duly sworn, states that the foregoing
transcript of his/her Deposition, taken in the
matter, on the date, and at the time and place
set out on the title page hereof, constitutes
a true and accurate transcript of said
deposition.

POLICE OFFICER JOSEPH OTTAVIANO

Signed and subscribed to before me
this ___ day of _____, 20__.

NOTARY PUBLIC, STATE OF NEW YORK

DEPONENT'S DECLARATION

DECLARATION UNDER PENALTY OF PERJURY

I, POLICE OFFICER JOSEPH
OTTAVIANO, declare, under penalty of perjury,
that I have read the entire transcript of my
Deposition taken in the above-captioned
matter, or the same has been read to me, and
the same is true and accurate, save and except
for changes and/or corrections, if any, as
indicated by me on the ERRATA SHEET hereof,
with the understanding that I offer these
changes as if still under oath. I would like
changes made to my deposition transcript as
indicated on the following page:

Signed on the ____ day of _____, 20__.

POLICE OFFICER JOSEPH OTTAVIANO

February 3, 2022

ERRATA SHEET

INSTRUCTIONS: After reading the transcript of your testimony, please note any change, addition or deletion on this sheet. DO NOT make any marks or notations on the actual transcript.

CASE #: 562688

CASE NAME: WILLIAMS v CONY, ET AL.

HELD: THURSDAY, FEBRUARY 3, 2022

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ERRATA SHEET

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POLICE OFFICER JOSEPH OTTAVIANO

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